## IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF PUERTO RICO

UNITED STATES OF AMERICA,

Plaintiff

v.

ANFERNEE MOLINA-FLORES (1),

Defendant

Criminal No. 16-192 (JAG)

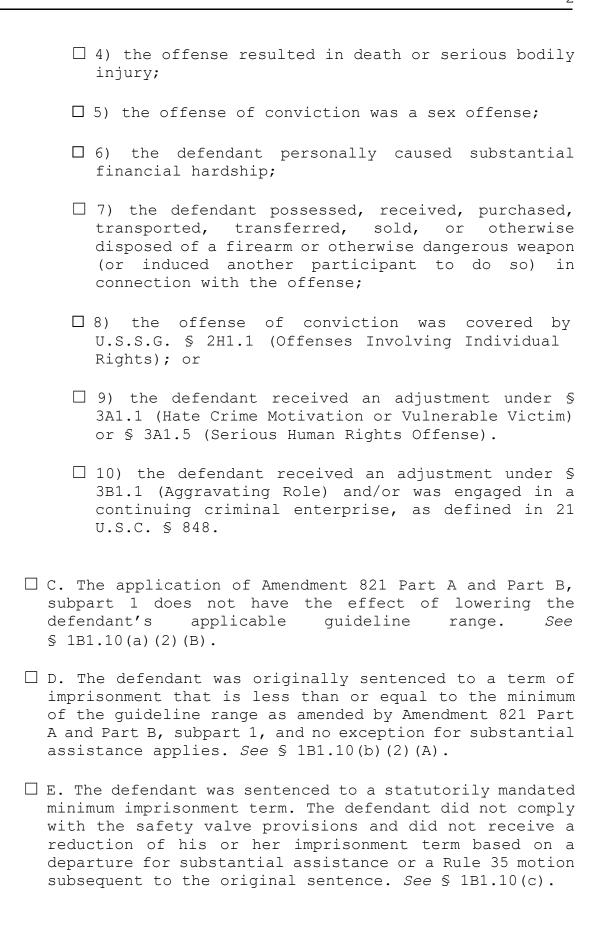
## MAGISTRATE JUDGE'S REPORT AND RECOMMENDATION Re: Amendment 821

The below report and recommendation relates to an initial determination as to the defendant's eligibility for a sentencing reduction promulgated by the United States Sentencing Commission under Part A and Part B, Subpart 1 of Amendment 821 to Policy Statement § 1B1.10(d).

After careful review of the defendant's presentence report, charging document(s), plea agreement, plea supplement, judgment, and statement of reasons, I recommend that:

$\square$ The defendant is <u>not</u> eligible for a sentence reduction based on the following factor(s):
☐ A. The guidelines range that applied in the defendant's case was not determined by U.S.S.G. § 4A1.1(d) or defendant's status as a zero-point offender under Chapter 4, Part A.
$\square$ B. The defendant does not meet <u>all</u> of conditions specified by § 4C1.1. Specifically, one or more of the following criteria applies:
☐ 1) the defendant has criminal history points from Chapter Four, Part A;
☐ 2) the defendant received an adjustment under U.S.S.G. § 3A1.4 (Terrorism);
$\square$ 3) the defendant used violence or credible threats

of violence in connection with the offense;



Since a determination of ineligibility has been made, the matter is formally submitted to the presiding District Court Judge. Defense counsel, whether retained, appointed, or pro bono, has fourteen days to object to the initial assessment of ineligibility. After the fourteen day period, and in the absence of an objection by defense counsel, the presiding District Court Judge may adopt the recommendation of the Magistrate Judge and may rule on the motion for reduction of sentence.

☑ The defendant may be eligible for a sentence reduction and therefore the matter is referred to a United States District Judge.

The presiding judicial officer shall wait for the parties' stipulation of a sentence reduction within fourteen days. If no stipulation is reached within this period, the presiding judicial officer shall wait for the United States Probation Office, defense counsel, and the Government's memoranda, which shall be filed within another fourteen days.

## Reasons:

Molina-Flores received two criminal status points for committing the offense under a criminal justice sentence. He was sentenced under Criminal History Category VI. Under Amendment 821, he would only receive one additional point for committing the offense while under a criminal justice sentence and having 11 criminal status points. With a total of 12 criminal status points, Molina-Flores would now be sentenced under Criminal History Category V and may be eligible for a sentence reduction.

IT IS SO RECOMMENDED.

In San Juan, Puerto Rico, this 7th of February, 2024.

s/ Bruce J. McGiverin
UNITED STATES MAGISTRATE JUDGE